

110TH CONGRESS  
2D SESSION

# H. R. 1907

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## AN ACT

To authorize the acquisition of land and interests in land from willing sellers to improve the conservation of, and to enhance the ecological values and functions of, coastal and estuarine areas to benefit both the environment and the economies of coastal communities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Coastal and Estuarine  
5 Land Conservation Program Act”.

6       **SEC. 2. AUTHORIZATION OF COASTAL AND ESTUARINE**  
7               **LAND CONSERVATION PROGRAM.**

8       The Coastal Zone Management Act of 1972 (16  
9 U.S.C. 1451 et seq.) is amended by inserting after section  
10 307 the following new section:

11       “AUTHORIZATION OF THE COASTAL AND ESTUARINE  
12               LAND CONSERVATION PROGRAM

13       “SEC. 307A. (a) IN GENERAL.—The Secretary may  
14 conduct a Coastal and Estuarine Land Conservation Pro-  
15 gram, in cooperation with appropriate State, regional, and  
16 other units of government, for the purposes of protecting  
17 important coastal and estuarine areas that have signifi-  
18 cant conservation, recreation, ecological, historical, or aes-  
19 thetic values, or that are threatened by conversion from  
20 their natural, undeveloped, or recreational state to other  
21 uses or could be managed or restored to effectively con-  
22 serve, enhance, or restore ecological function. The pro-  
23 gram shall be administered by the National Ocean Service  
24 of the National Oceanic and Atmospheric Administration  
25 through the Office of Ocean and Coastal Resource Man-  
26 agement.

1       “(b) PROPERTY ACQUISITION GRANTS.—The Sec-  
2       retary shall make grants under the program to coastal  
3       states with approved coastal zone management plans or  
4       National Estuarine Research Reserve units for the pur-  
5       pose of acquiring property or interests in property de-  
6       scribed in subsection (a) that will further the goals of—

7               “(1) a Coastal Zone Management Plan or Pro-  
8       gram approved under this title;

9               “(2) a National Estuarine Research Reserve  
10      management plan;

11              “(3) a regional or State watershed protection or  
12      management plan involving coastal states with ap-  
13      proved coastal zone management programs; or

14              “(4) a State coastal land acquisition plan that  
15      is consistent with an approved coastal zone manage-  
16      ment program.

17       “(c) GRANT PROCESS.—The Secretary shall allocate  
18      funds to coastal states or National Estuarine Research  
19      Reserves under this section through a competitive grant  
20      process in accordance with guidelines that meet the fol-  
21      lowing requirements:

22              “(1) The Secretary shall consult with the coast-  
23      al state’s coastal zone management program, any  
24      National Estuarine Research Reserve in that State,  
25      and the lead agency designated by the Governor for

1 coordinating the implementation of this section (if  
2 different from the coastal zone management pro-  
3 gram).

4 “(2) Each participating coastal state, after con-  
5 sultation with local governmental entities and other  
6 interested stakeholders, shall identify priority con-  
7 servation needs within the State, the values to be  
8 protected by inclusion of lands in the program, and  
9 the threats to those values that should be avoided.

10 “(3) Each participating coastal state shall to  
11 the extent practicable ensure that the acquisition of  
12 property or easements shall complement working wa-  
13 terfront needs.

14 “(4) The applicant shall identify the values to  
15 be protected by inclusion of the lands in the pro-  
16 gram, management activities that are planned and  
17 the manner in which they may affect the values  
18 identified, and any other information from the land-  
19 owner relevant to administration and management of  
20 the land.

21 “(5) Awards shall be based on demonstrated  
22 need for protection and ability to successfully lever-  
23 age funds among participating entities, including  
24 Federal programs, regional organizations, State and

1 other governmental units, landowners, corporations,  
2 or private organizations.

3 “(6) The governor, or the lead agency des-  
4 igned by the governor for coordinating the imple-  
5 mentation of this section, where appropriate in con-  
6 sultation with the appropriate local government,  
7 shall determine that the application is consistent  
8 with the State’s or territory’s approved coastal zone  
9 plan, program, and policies prior to submittal to the  
10 Secretary.

11 “(7)(A) Priority shall be given to lands de-  
12 scribed in subsection (a) that can be effectively man-  
13 aged and protected and that have significant ecologi-  
14 cal value.

15 “(B) Of the projects that meet the standard in  
16 subparagraph (A), priority shall be given to lands  
17 that—

18 “(i) are under an imminent threat of con-  
19 version to a use that will degrade or otherwise  
20 diminish their natural, undeveloped, or rec-  
21 reational state; and

22 “(ii) serve to mitigate the adverse impacts  
23 caused by coastal population growth in the  
24 coastal environment.

1           “(8) In developing guidelines under this section,  
2           the Secretary shall consult with coastal states, other  
3           Federal agencies, and other interested stakeholders  
4           with expertise in land acquisition and conservation  
5           procedures.

6           “(9) Eligible coastal states or National Estua-  
7           rine Research Reserves may allocate grants to local  
8           governments or agencies eligible for assistance under  
9           section 306A(e).

10          “(10) The Secretary shall develop performance  
11          measures that the Secretary shall use to evaluate  
12          and report on the program’s effectiveness in accom-  
13          plishing its purposes, and shall submit such evalua-  
14          tions to Congress triennially.

15          “(d) LIMITATIONS AND PRIVATE PROPERTY PROTEC-  
16          TIONS.—

17               “(1) A grant awarded under this section may  
18               be used to purchase land or an interest in land, in-  
19               cluding an easement, only from a willing seller. Any  
20               such purchase shall not be the result of a forced tak-  
21               ing under this section. Nothing in this section re-  
22               quires a private property owner to participate in the  
23               program under this section.

24               “(2) Any interest in land, including any ease-  
25               ment, acquired with a grant under this section shall

1 not be considered to create any new liability, or have  
2 any effect on liability under any other law, of any  
3 private property owner with respect to any person  
4 injured on the private property.

5 “(3) Nothing in this section requires a private  
6 property owner to provide access (including Federal,  
7 State, or local government access) to or use of pri-  
8 vate property unless such property or an interest in  
9 such property (including a conservation easement)  
10 has been purchased with funds made available under  
11 this section.

12 “(e) RECOGNITION OF AUTHORITY TO CONTROL  
13 LAND USE.—Nothing in this title modifies the authority  
14 of Federal, State, or local governments to regulate land  
15 use.

16 “(f) MATCHING REQUIREMENTS.—

17 “(1) IN GENERAL.—The Secretary may not  
18 make a grant under the program unless the Federal  
19 funds are matched by non-Federal funds in accord-  
20 ance with this subsection.

21 “(2) COST SHARE REQUIREMENT.—

22 “(A) IN GENERAL.—Grant funds under  
23 the program shall require a 100 percent match  
24 from other non-Federal sources.

1                   “(B) WAIVER OF REQUIREMENT.—The  
2                   Secretary may grant a waiver of subparagraph  
3                   (A) for underserved communities, communities  
4                   that have an inability to draw on other sources  
5                   of funding because of the small population or  
6                   low income of the community, or for other rea-  
7                   sons the Secretary deems appropriate and con-  
8                   sistent with the purposes of the program.

9                   “(3) OTHER FEDERAL FUNDS.—Where finan-  
10                  cial assistance awarded under this section represents  
11                  only a portion of the total cost of a project, funding  
12                  from other Federal sources may be applied to the  
13                  cost of the project. Each portion shall be subject to  
14                  match requirements under the applicable provision  
15                  of law.

16                  “(4) SOURCE OF MATCHING COST SHARE.—For  
17                  purposes of paragraph (2)(A), the non-Federal cost  
18                  share for a project may be determined by taking into  
19                  account the following:

20                         “(A) The value of land or a conservation  
21                         easement may be used by a project applicant as  
22                         non-Federal match, if the Secretary determines  
23                         that—

24                                 “(i) the land meets the criteria set  
25                                 forth in section 2(b) and is acquired in the



1 period beginning 3 years before the date of  
2 the submission of the grant application  
3 and ending 3 years after the date of the  
4 award of the grant;

5 “(ii) the value of the land or easement  
6 is held by a non-governmental organization  
7 included in the grant application in per-  
8 petuity for conservation purposes of the  
9 program; and

10 “(iii) the land or easement is con-  
11 nected either physically or through a con-  
12 servation planning process to the land or  
13 easement that would be acquired.

14 “(B) The appraised value of the land or  
15 conservation easement at the time of the grant  
16 closing will be considered and applied as the  
17 non-Federal cost share.

18 “(C) Costs associated with land acquisi-  
19 tion, land management planning, remediation,  
20 restoration, and enhancement may be used as  
21 non-Federal match if the activities are identi-  
22 fied in the plan and expenses are incurred with-  
23 in the period of the grant award, or, for lands  
24 described in (A), within the same time limits

1 described therein. These costs may include ei-  
2 ther cash or in-kind contributions.

3 “(g) RESERVATION OF FUNDS FOR NATIONAL ESTU-  
4 ARINE RESEARCH RESERVE SITES.—No less than 15 per-  
5 cent of funds made available under this section shall be  
6 available for acquisitions benefitting National Estuarine  
7 Research Reserves.

8 “(h) LIMIT ON ADMINISTRATIVE COSTS.—No more  
9 than 5 percent of the funds made available to the Sec-  
10 retary under this section shall be used by the Secretary  
11 for planning or administration of the program. The Sec-  
12 retary shall provide a report to Congress with an account  
13 of all expenditures under this section for fiscal year 2009  
14 and triennially thereafter.

15 “(i) TITLE AND MANAGEMENT OF ACQUIRED PROP-  
16 erty.—If any property is acquired in whole or in part  
17 with funds made available through a grant under this sec-  
18 tion, the grant recipient shall provide—

19 “(1) such assurances as the Secretary may re-  
20 quire that—

21 “(A) the title to the property will be held  
22 by the grant recipient or another appropriate  
23 public agency designated by the recipient in  
24 perpetuity;

1           “(B) the property will be managed in a  
2           manner that is consistent with the purposes for  
3           which the land entered into the program and  
4           shall not convert such property to other uses;  
5           and

6           “(C) if the property or interest in land is  
7           sold, exchanged, or divested, funds equal to the  
8           current value will be returned to the Secretary  
9           in accordance with applicable Federal law for  
10          redistribution in the grant process; and

11          “(2) certification that the property (including  
12          any interest in land) will be acquired from a willing  
13          seller.

14          “(j) REQUIREMENT FOR PROPERTY USED FOR NON-  
15          FEDERAL MATCH.—If the grant recipient elects to use  
16          any land or interest in land held by a non-governmental  
17          organization as a non-Federal match under subsection (g),  
18          the grant recipient must to the Secretary’s satisfaction  
19          demonstrate in the grant application that such land or in-  
20          terest will satisfy the same requirements as the lands or  
21          interests in lands acquired under the program.

22          “(k) DEFINITIONS.—In this section:

23                 “(1) CONSERVATION EASEMENT.—The term  
24                 ‘conservation easement’ includes an easement or re-  
25                 striction, recorded deed, or a reserve interest deed

1       where the grantee acquires all rights, title, and in-  
2       terest in a property, that do not conflict with the  
3       goals of this section except those rights, title, and  
4       interests that may run with the land that are ex-  
5       pressly reserved by a grantor and are agreed to at  
6       the time of purchase.

7               “(2) INTEREST IN PROPERTY.—The term ‘in-  
8       terest in property’ includes a conservation easement.

9               “(1) AUTHORIZATION OF APPROPRIATIONS.—There  
10      are authorized to be appropriated to the Secretary to carry  
11      out this section \$60,000,000 for each of fiscal years 2009  
12      through 2013.”.

        Passed the House of Representatives September 22,  
2008.

Attest:

*Clerk.*



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To authorize the acquisition of land and interests in land from willing sellers to improve the conservation of, and to enhance the ecological values and functions of, coastal and estuarine areas to benefit both the environment and the economies of coastal communities, and for other purposes.